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Extraordinary Gazette No. 14 dated 10th March 1955.

NOTIFICATION

No. LA4-298/1955. *10th March 1955.*

The following Bill together with the Statement of Objects and Reasons and the Financial Memorandum attached to it is published, as ordered by the Speaker under Rule 73 of the Rules of Procedure and Conduct of Business in the Travancore-Cochin Legislative Assembly.

Legislature Secretariat,
Trivandrum,

V. KRISHNAMOORTHI,
Secretary,
Legislative Assembly.

THE TRAVANCORE-COCHIN BHOODAN YAGNA BILL.

A Bill to facilitate the donation of lands in connection with the Bhoodan Yagna initiated by Sri Acharya Vinoba Bhave and to provide for the settling of such lands with the landless persons.

Preamble. WHEREAS it is expedient to facilitate the donation of lands in connection with the Bhoodan Yagna initiated by Sri Acharya Vinoba Bhave and to provide for the settling of such lands with landless persons;

Be it enacted in the Sixth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.* (1) This Act may be called the Travancore-Cochin Bhoodan Yagna Act, 1955.

(2) It extends to the whole of the State of Travancore-Cochin.

(3) It shall come into force at once.

2. *Definitions.* In this Act, unless the context otherwise requires,—

(a) "Bhoodan Yagna" means the movement initiated by Sri Acharya Vinoba Bhave for the acquisition of land through voluntary gifts with a view to distribute it to landless persons;

(b) "Committee" means the Committee established under Section 3;

(c) "landless person" means a person holding no land or land less in area than the area which may be prescribed in this behalf;

(d) "owner" includes a tenant having a heritable and transferable interest in land; and

(e) "prescribed" means prescribed by Rules made under this Act.

3. *Establishment and incorporation of the Bhoodan Yagna Committee.* There shall be established a Bhoodan Yagna Committee having perpetual succession and a common seal which shall be a body corporate vested with the capacity of suing and being sued in its corporate name, of acquiring, holding, administering and transferring property, both movable and immovable and of entering into contracts.

4. *Constitution of the Committee.* (1) The Committee shall consist of the following members, namely:—

(a) the Chairman to be nominated by Sri Acharya Vinoba Bhave; and

(b) four or more but not exceeding nine members to be nominated by Sri Acharya Vinoba Bhave.

(2) If the Chairman or any member is not nominated before the date or any extended date fixed in that behalf by the Government, the Government shall appoint the Chairman or the member as the case may be, in the place or places so left vacant.

(3) The nomination or the appointment of the Chairman and of the members shall be notified in the Gazette.

(4) The Chairman and members of the Committee shall hold office for four years from the date of the notification under sub-section (3) and shall be eligible for re-appointment or re-nomination.

5. *Dissolution of the committee.* If at any time the Government are satisfied that—

(1) the committee has failed without reasonable cause or excuse to discharge the duties or to perform the functions imposed or assigned by or under this Act; or

(2) circumstances have so arisen that the Committee is rendered unable or may be rendered unable to discharge the duties or to perform the functions imposed or assigned by or under this Act; or

(3) it is otherwise expedient or necessary to supersede the Committee;

they may, after giving the Committee a reasonable opportunity, for explanation, by notification in the Gazette—

(i) dissolve the Committee and direct the reconstitution of the Committee in accordance with the provisions of Section 4 of this Act, or

(ii) supersede the Committee for a period to be specified in the notification whereupon the following consequences shall ensue:—

(a) All the members of the Committee as well as the Chairman shall forthwith be deemed to have vacated their offices.

(b) All or any of the functions of the Committee and of its Chairman, may, during the period of supersession be exercised and performed as far as may be and to such extent as the Government may determine by such person or authority as the Government may appoint in that behalf.

6. *Casual vacancies and other matters about the Committee.* The method of filling up casual vacancies in the Committee, procedure of the working of the Committee and the conduct of its business shall be such as may be prescribed.

7. *Duties of the Committee.* (1) It shall be the duty of the Committee to administer all the lands vested in it for the benefit of the Bhoodan Yagna.

(2) The Committee shall for the purpose of Bhoodan Yagna perform such other functions and possess such other powers in respect of such lands as may be prescribed.

8. *Donations of land to Bhoodan Yagna and competency of donor.* (1) Notwithstanding anything contained in any law for the time being in force but subject to the provisions of Section 11 any person being the owner of land shall be competent to donate and grant such land to the Bhoodan Yagna Committee by a declaration in writing in that behalf (hereinafter called the Bhoodan declaration) in the manner prescribed.

(2) The Bhoodan declaration shall be filed with the Tahsildar of the Taluk in which the land is situate.

9. *Publication of and investigation upon the declaration.* Upon receipt of the Bhoodan declaration the Tahsildar shall—

(a) publish the same calling for objections and

(b) make a summary enquiry as to the right, title and interest of the donor in such land.

10. (1) *Filing, hearing and disposal of objections.* Any person whose interests are affected by the Bhoodan declaration made under Section 8 may, within thirty days of the publication of the declaration, file objections on the same before the Tahsildar.

(2) The Tahsildar shall register every such objection and shall fix a date of hearing of which notice shall be given to the declarant and the objector.

(3) On the date of hearing or any other date to which it may be postponed, the Tahsildar shall proceed to investigate and dispose of the objections and shall, subject to the provisions of Section 11;

(a) either confirm the Bhoodan declaration, by notification, or

(b) supersede the same.

(4) If the Tahsildar confirms the Bhoodan declaration, then, notwithstanding anything contained in any law for the time being in force, all the rights, title and interest of the donor in such land shall stand transferred and vest in the Committee for purposes of the Bhoodan Yagna, from the date of the notification under sub-section (3).

(5) Where the Bhoodan declaration is superseded by the Tahsildar under sub-section (3), the donation shall stand cancelled and the donor shall be deemed to continue to have all his rights, interests and title in such land as if no such donation was made.

11. *Lands which cannot be donated.* Notwithstanding anything contained in any law for the time being in force an owner shall not for the purposes of this Act, be entitled to donate the land falling in any of the following classes, namely : —

(a) lands which on the date of donation are recorded or by usage treated as common pasture lands, cremation or burial grounds, tank, pathway or threshing floor, and

(b) such other lands as Government may by notification specify.

12. *Lands donated prior to the commencement of the Act.*—(1) Where any land other than lands to which provisions of Section 11 apply has been donated to the Committee prior to the commencement of this Act, the Committee shall prepare a list of all such lands showing therein—

(a) the area and other particulars of the land;

(b) the name and address of the owner who is the donor;

(c) date of donation;

(d) the nature of the right, title or interest of the owner in the land making the donation; and

(e) such other particulars as may be prescribed.

(2) The list so prepared shall be forwarded to the Tahsildar of the Taluk in which the land is situate.

(3) On receipt of such list the Tahsildar shall publish the same calling for objection and make a summary enquiry as to the right, title and interest of the donor in respect of each such land.

(4) The provisions of Section 10 shall apply in respect of all the donations of the said lands as they apply in respect of all donations of lands made after the commencement of this Act.

13. *Grant of land to the landless persons.*—The Committee or such other authority or person as the Committee may with the approval of the Government specify either generally or in respect of any area, may, in the manner prescribed, grant lands which have vested in it to landless persons and the grantees of such lands shall, in such manner and to such extent as may be prescribed, acquire therein the rights and liabilities as the owner had or was subject to.

14. *Grants to be made in accordance with Bhoodan Yagna Scheme.* All grants under Section 13 shall be made as far as may be in accordance with the Scheme of Bhoodan Yagna to be prescribed.

15. *Exemption from stamp duty and registration.* The Bhoodan declaration made under Section 8 or the document evidencing the donation of land for purposes of Bhoodan Yagna made prior to the commencement of the Act or a grant of land made or deemed to have been made under Section 13 shall be and be deemed always to have been exempt from payment of stamp duty and from registration or attestation, any law to the contrary notwithstanding.

16. *Power to make Rules.* (1) The Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for—

(a) prescribing the area of land for purposes of clause (c) of Section 2;

(b) the matters relating to the establishment and constitution of the Committee and the nomination and appointment of chairman and of the members thereof;

(c) the form of Bhoodan declaration and the manner in which it shall be filed;

(d) the documents to be filed with the Bhoodan declaration;

(e) the manner of publication of the Bhoodan declaration;

(f) powers and functions of the Committee under Section 7;

(g) the nature, scope and manner of the enquiry under Sections 9 and 12;

(h) the manner of filing the objections and their registration;

(i) the manner and mode of service of notice under this Act;

(j) the procedure to be followed in hearing and disposal of objections under Section 10;

(k) the procedure relating to confirmation or supersession of declaration;

(l) the matters relating to the manner and extent of the grant of land in pursuance of Section 13;

(m) the scheme of Bhoodan Yagna under Section 14; and

(n) the matters which are to be and may be prescribed.

STATEMENT OF OBJECTS AND REASONS.

The Bhoodan Yagna movement of Shri Acharya Vinoba Bhave has already been extended to the State and there has been encouraging response from the people to the movement. The Planning Commission has also mentioned the movement as one having special value for the benefit of landless persons. This Bill is intended to facilitate the donation of lands in connection with the above movement and to provide the settling of such lands with the landless persons.

A. J. John.

FINANCIAL MEMORANDUM.

Clause 3 of the Bill provides for the constitution of a Bhoodan Yagna Committee. According to clause 4, the Committee shall consist of a Chairman, and not less than four and not more than nine members. It may be necessary to incur expenditure from the Consolidated Fund of the State by way of T. A. and other allowances to the Chairman and the members of the Committee and on account of other incidental charges. But the actual amount to be expended on this account cannot be estimated now.

A. J. JOHN.

Extraordinary Gazette No. 14 dated 10th March 1955.

NOTIFICATION.

No. LA.4-319|1955. *10th March 1955.*

The following Bill together with the Statement of Objects and Reasons and the Financial Memorandum attached to it is published, as ordered by the Speaker under Rule 73 of the Rules of Procedure and Conduct of Business in the Travancore-Cochin Legislative Assembly.

Legislature Secretariat,
Trivandrum.

V. KRISHNAMOORTHI,
Secretary,
Legislative Assembly.

THE TRAVANCORE-COCHIN REQUISITIONING AND ACQUISITION OF PROPERTY BILL, 1955.

A Bill to provide for the requisitioning and acquisition of property for public purposes not being purposes of the Union.

Preamble. Whereas it is expedient to provide for the requisitioning and acquisition of property for public purposes not being purposes of the Union;

Be it enacted in the sixth year of the Republic of India as follows:—

1. *Short title, extent, commencement and duration.*—(1) This Act may be called the Travancore-Cochin Requisitioning and Acquisition of Property Act, 1955.

(2) It extends to the whole of the State of Travancore-Cochin.

(3) It shall come into force at once and shall remain in force for a period of six years from the date of the commencement of this Act.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(a) "award" means any award of an arbitrator made under section 8;

(b) "landlord" means any person who for the time being is receiving, or is entitled to receive, the rent of any premises, whether on his own account, or on account or on behalf or for the benefit, of any other person or as a trustee, guardian or receiver for any other person, or who would so receive the rent or be entitled to receive the rent if the premises were let to a tenant;

(c) the expression "person interested", in relation to any property, includes all persons claiming, or entitled to claim, an interest in the compensation payable on account of the requisitioning or acquisition of that property under this Act;

(d) "premises" means any building or part of a building and includes—

(i) the garden, grounds and out-houses, if any, appertaining to such building or part of a building;

(ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "property" means movable or immovable property of every kind and includes any rights in or over such property;

(g) "State" means the State of Travancore-Cochin;

(h) "tenant" means any person by whom or on whose account rent is payable for any premises and includes such sub-tenants and other persons as have derived title under the tenant under any law for the time being in force.

3. *Power to requisition property.*—(1) Where the Government are of opinion that any property is needed or likely to be needed for any public purpose, not being a purpose of the Union, and that the property should be requisitioned, the Government—

(a) shall call upon the owner or any other person who may be in possession of the property by notice in writing (specifying therein the purpose of the requisition) to show cause, within fifteen days of the date of the service of such notice on him, why the property should not be requisitioned; and

(b) may, by order, direct that neither the owner of the property nor any other person shall, without permission of the Government dispose of, or structurally alter, the property or let it out to a tenant until the expiry of such period, not exceeding two months, as may be specified in the order.

(2) If, after considering the cause, if any, shown by any person interested in the property or in possession thereof, the Government are satisfied that it is necessary or expedient so to do, they may, by order in writing, requisition the property and may make such further orders as appear to them to be necessary or expedient in connection with the requisitioning:

Provided that no property or part thereof—

(a) which is *bona fide* used by the owner thereof as the residence of himself or his family, or

(b) which is exclusively used either for religious worship by the public or as a school, hospital, public library or an orphanage or for the purpose of accommodation of persons connected with the management of such place of worship or such school, hospital, library or orphanage,
shall be requisitioned:

Provided further that where the requisitioned property consists of premises which are being used as a residence by a tenant for not less than two months immediately preceding the date of the service of notice under sub-section (1), the Government shall provide such tenant with alternative accommodation which in their opinion is suitable.

4. *Power to take possession of requisitioned property.*— (1) Where any property has been requisitioned under section 3, the Government may, by notice in writing, order the owner as well as any other person who may be in possession of the property to surrender or deliver possession thereof to the Government or any person duly authorised by them in this behalf within thirty days of the service of the notice.

(2) If any person refuses or fails to comply with an order made under sub-section (1), the Government or any person duly authorised in this behalf may take possession of the property and may, for that purpose, use such force as may be necessary.

5. *Rights over requisitioned property.*— (1) All property requisitioned under section 3, shall be used for such purposes as may be mentioned in the notice of requisition.

(2) Where any premises are requisitioned under section 3, the Government may, after notice, order the landlord to execute such repairs as may be necessary and are usually made by landlords in that locality and as may be specified in the notice, within such reasonable time as may be mentioned therein, and if the landlord fails to execute any repairs in pursuance of such order, the Government may cause the repairs specified in the order to be executed at the expense of the landlord and the cost thereof may, without prejudice to any other mode of recovery, be deducted from the compensation payable to the landlord.

6. *Release from requisitioning.*— (1) The Government may at any time release from requisition any property requisitioned under this Act and shall, as far as possible, restore the property in as good a condition as it was when possession thereof was taken subject only to the changes caused by reasonable wear and tear and irresistible force:

Provided that where the purposes for which any requisitioned property was being used cease to exist, the Government shall, unless the property is acquired under section 7, release that property, as soon as may be, from requisition.

(2) Where any property is to be released from requisition, the Government may, after such inquiry, if any, as they may in any case consider necessary to make or cause to be made, specify by order in writing the person to whom possession of the property shall be given and such possession shall, as far as practicable, be given to the person from whom possession was taken at the time of the requisition or to the successors-in-interest of such person.

(3) The delivery of possession of the property to the person specified in an order under sub-section (2) shall be a full discharge of the Government from all liability in respect of the property, but shall not prejudice any rights in respect of the property which any other person may be entitled by due process of law to enforce against the person to whom possession of the property is given.

(4) Where any person to whom possession of any requisitioned property is to be given is not found and has no agent or other person empowered to accept delivery on his behalf, the Government shall cause a notice declaring that the property is released from requisition to be published in the Gazette and in the case of immovable property such notice shall also be affixed on some conspicuous part of the property.

(5) When a notice referred to in sub-section (4) is published in the Gazette, the property specified in such notice shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person entitled to possession thereof and the Government shall not be liable for any compensation or other claim in respect of the property for any period after the said date.

(6) Where any property requisitioned under this Act or any material part thereof is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was requisitioned by reason of fire, earthquake, tempest, flood or violence of any army or of a mob or other irresistible force, the requisition shall, at the option of the Government, be void:

Provided that the benefit of this sub-secton shall not be available to the Government where the injury to such property is caused by any wrongful act or default of Government.

7. *Power to acquire requisitioned property.*— (1) Where any property is subject to requisition the Government may, if they are of opinion that it is necessary to acquire the property for a public purpose not being a purpose of the Union, at any time acquire such property by publishing in the Gazette a notice to the effect that the Government has decided to acquire the property in pursuance of this section;

Provided that before issuing such notice, the Government shall call upon the owner of, or any other person who, in the opinion of the Government, may be interested in, such property to show cause why the property should not be acquired; and after considering the cause, if any, shown by any person interested in the property and after giving the parties an opportunity of being heard, the Government may pass such orders as they deem fit.

(2) When a notice as aforesaid is published in the Gazette, the requisitioned property shall, on and from the beginning of the day on which the notice is so published, vest absolutely in the Government free from all encumbrances and the period of requisition of such property shall end.

(3) No property shall be acquired under this section except in the following circumstances, namely—

(a) where any works have, during the period of requisition, been constructed on, in or over, the property wholly or partially at the expense of the Government and the Government decides that the value of, or the right to use, such works should be secured or preserved for the purposes of Government; or

(b) where the cost of restoring the property to its condition at the time of its requisition would, in the determination of the Government, be excessive and the owner declines to accept release from requisition of the property without payment of compensation for so restoring the property.

(4) Any decision or determination of the Government under sub-section (3) shall be final and shall not be called in question in any court.

(5) For the purposes of clause (a) of sub-section (3) "works" includes buildings, structures and improvements of every description.

8. *Principles and method of determining compensation in cases where immovable property is requisitioned or acquired.* (1) Where any immovable property is requisitioned or acquired under this Act, there shall be paid compensation the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,—

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

(b) where no such agreement can be reached, the Government shall appoint as arbitrator; a person who is, or has been, or is qualified for appointment as, a Judge of the High Court;

(c) the Government may, in any particular case, nominate a person having expert knowledge as to the nature of the immovable property requisitioned or acquired to assist the arbitrator and where such nomination is made, the person to be compensated may also nominate an assessor for the same purpose;

(d) at the commencement of the proceedings before the arbitrator, the Government and the person to be compensated shall state what in their respective opinion is a fair amount of compensation;

(e) the arbitrator shall, after hearing the dispute, make an award determining the amount of compensation which appears to him to be just and specifying the person or persons to whom such compensation shall be paid; and in making the award, he shall have regard to the circumstances of each case and the provisions of sub-sections (2) and (3), so far as they are applicable;

(f) where there is any dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are entitled to compensation, he shall apportion the amount thereof amongst such persons;

(g) nothing in the Arbitration Act, 1940 (Central Act X of 1940) shall apply to arbitrations under this section.

(2) The amount of compensation payable for the requisitioning of any immovable property shall consist of—

(a) a recurring payment, in respect of the period of requisition of a sum equal to the rent which would have been payable for the use and occupation of the immovable property, if it had been taken on lease for that period; and

(b) such sum or sums, if any, as may be found necessary to compensate the person interested for all or any of the following matters, namely:—

(i) pecuniary loss due to requisitioning;

(ii) expenses on account of vacating the requisitioned premises;

(iii) expenses on account of re-occupying the premises upon release from requisition; and

(iv) damages (other than normal wear and tear) caused to the immovable property during the period of requisition, including the expenses that may have to be incurred for restoring the same to the condition in which it was, at the time of requisition.

(3) The compensation payable for the acquisition of any immovable property under Section 7 shall be—

(a) the price which the requisitioned immovable property would have fetched in the open market, if it had remained in the same condition as it was at the time of requisitioning and been sold on the date of acquisition, or

(b) twice the price which the requisitioned immovable property would have fetched in the open market if it had been sold on the date of requisition, whichever is less,

9. *Payment of compensation, relating to immovable property.*—The amount of compensation payable under an award shall, subject to any rules made under this Act, be paid by the Government to the person or persons entitled thereto in such manner and within such time as may be specified in the award.

10. *Appeals from awards in respect of compensation.*—Any person aggrieved by an award of the arbitrator made under Section 8 may, within thirty days from the date of such award, prefer an appeal to the High Court:

Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

11. *Government and Officers and authorities empowered by Government and arbitrator to have certain powers of civil courts.*—The Government or any officer or authority empowered by Government under sub-section (1) of Section 17 and the arbitrator appointed under Section 8 while holding an inquiry or as the case may be, arbitration proceedings under this Act, shall have all the powers of a civil court, while trying a suit, under the Code of Civil Procedure, 1908 (Central Act V of 1908) in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) reception of evidence on affidavits;

(d) requisitioning any public record from any court or office;

(e) issuing commissions for examination of witnesses.

12. *Principles and method of determining compensation in cases where movable property is requisitioned or acquired.*—Where any *movable property* is requisitioned or acquired under this Act the compensation payable therefor and the person or persons to whom it should be paid shall be determined in accordance with the Rules to be made in this behalf by Government:

Provided that the rules so framed for payment of compensation shall—

(a) in respect of movable property requisitioned provide for payment of rent or other return which the property would normally fetch if so allowed to be used; and

(b) in respect of movable property acquired for payment of compensation at the market rate prevailing on the date of acquisition.

13. *Power to obtain information.*—The Government may, with a view to carrying out the purposes of Section 3 or Section

6, or Section 7 or Section 8, or Section 12 by order require any person to furnish to such officer, as may be specified in the order, such information in his possession as may be specified relating to any property which is requisitioned or acquired, or intended to be requisitioned or acquired under this Act.

14. *Power to enter and inspect.*—Any officer, empowered in this behalf by Government by general or special order, may enter and inspect any property for the purposes of determining whether, and if so, in what manner, an order under this Act should be made in relation to such property or with a view to securing compliance with an order made under this Act.

15. *Service of notice and orders.*—(1) Subject to the provisions of this Section and any rules that may be made under this Act, every notice or order issued or made under this Act shall,—

(a) in the case of any notice or order of a general nature or affecting a class of persons, be published in the Gazette; and

(b) in the case of any notice or order affecting an individual, corporation or firm, be served in the manner provided for the service of summons in Rule 2 of Order XXIX or Rule 3 of Order XXX, as the case may be, in the First Schedule of the Code of Civil Procedure, 1908 (Central Act V of 1908); and

(c) in the case of any notice or order affecting an individual person (not being a corporation or firm), be served on such person—

(i) by delivering or tendering it to that person; or

(ii) if it cannot be so delivered or tendered, by delivering or tendering it to any officer of such person or any adult male member of the family of such person, or by affixing a copy thereof on the outer door or on some conspicuous part of the premises in which that person is known to have last resided or carried on business or personally worked for gain; or failing service by these means;

(iii) by registered post.

(2) Where the ownership of the property is in dispute or where the persons interested in the property are not readily traceable and the notice or order cannot be served without undue delay, the notice or order may be served by publishing it in the Gazette, and where possible, by affixing a copy thereof on any conspicuous part of the property to which it relates.

16. *Easement not to be disturbed.*—No person interested in any immovable property requisitioned or acquired under this Act shall, without the previous written consent of the Government or except for the purposes of effecting repairs or complying with a municipal requirement, wilfully disturb any convenience or easement attached to such property or remove, destroy or render unserviceable, anything provided for permanent use therewith or discontinue or cause to be discontinued any supply or service provided for the property.

17. *Delegation of Powers.*—(1) The Government may, by notification in the Gazette, direct that any power conferred on them by or under this Act shall, in such circumstances and under such conditions, if any as may be specified in the notification, be exercisable also by an officer or authority subordinate to the Government.

(2) All notifications issued under sub-section (1) shall be laid as soon as may be possible before the Legislative Assembly.

(3) An appeal shall lie to the Government from any decision made by the officer or authority subordinate to the Government to whom powers have been delegated under sub-section (1).

18. *Protection of action taken in good faith.*—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

(2) No suit or other legal proceeding shall lie against the Government, any officer or authority for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

19. *Bar of jurisdiction of civil courts.*—Save as otherwise expressly provided in this Act, no civil court shall have jurisdiction in respect of any matter which the Government or arbitrator is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

20. *Penalty for offences.*—Whoever contravenes any provision of this Act, or any rule made thereunder, or any order made or direction given under this Act, or obstructs the lawful exercise of any power conferred by or under this Act, shall be punishable with fine which may extend to one thousand rupees.

21. *Certain persons to be public servants.*—The arbitrator and every officer empowered by the Government while exercising any power or performing any duty under this Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code 1860, (Central Act XLV of 1860).

22. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the fore-going power such rules may provide for all or any of the following matters, namely:—

(a) the procedure to be followed by the Government in making inquiries under section 3 or section 6;

(b) the procedure to be followed in arbitration proceedings and appeals under this Act;

(c) the principles to be followed in determining the amount of compensation and method of payment of such compensation;

(d) the principles to be followed in apportioning the cost of proceedings before the arbitrator and on appeal under this Act;

(e) the manner of service of notices and orders;

(f) any other matter which has to be, or may be, prescribed.

(3) All rules made under the provisions of this Act shall be laid, as soon as may be, before the Legislative Assembly.

23. *Validation of certain requisitions and acquisitions.*—Every acquisition or requisition of property purporting to have been made before the commencement of this Act by the Government for any public purpose, being a purpose of the State under any enactment and which immediately before such commencement, was used or occupied by the Government or by an officer or authority subordinate to the Government, shall notwithstanding any defect in or invalidity of the enactment or order under which the acquisition or requisition was made, be deemed for all purposes to have been validly made under this Act as if this Act were in force at the time of such acquisition or requisition.

24. (1) *Repeal and Savings.*—The provisions of the Travancore-Cochin Public Safety Measures Act, 1950 (Act V of 1950) in so far as they relate to any matter for which provision has been made in this Act are hereby repealed.

(2) For the removal of doubts it is hereby declared that any property which immediately before such repeal was subject to requisition under the said provisions shall, on the commencement of this Act, be deemed to be property requisitioned under Section 3 of this Act and all the provisions of this Act shall apply accordingly;

Provided that—

(a) all agreements and awards for the payment of compensation in respect of any such property for any period of requisition before the commencement of this Act and in force immediately before such commencement, shall contiuue to be in force and shall apply to the payment of compensation in respect of that property for any period of requisition after such commencement;

(b) anything done or any action taken (including any orders, notification or rules made or issued) in exercise of the powers conferred by the said provisions shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act were in force on the day on which such thing was done or action was taken.

Statement of Objects and Reasons.

Consequent on the extension of the Essential Supplies Temporary Powers Act, 1946 (Central Act XXIV of 1946) and the Press (Objectionable Matter) Act, 1951 (Central Act LVI of 1951) to the State, most of the provisions contained in the Travancore-Cochin Public Safety Measures Act, V of 1950 have been superseded. It is proposed to have separate legislations pertaining to the provisions in the Public Safety Measures Act, not superseded thus. The necessity to implement this proposal has become great on account of the decision of the Travancore-Cochin High Court in 1952. K.L.T. 372 declaring Sections 4, 5, 6 and 14 of the Public Safety Measures Act as ineffective. The present Bill seeks to enact a separate law for requisitioning and acquisition of property for State purposes. The Bill closely follows the Requisitioning and Acquisition of Immovable Property Act, 1952 (Central Act XXX of 1952).

A. J. John.

FINANCIAL MEMORANDUM.

Clauses 8 and 12 of the Bill provide for the payment of compensation for properties requisitioned or acquired under the provisions of the Bill. Clause 8 (1) (b) also provides for the appointment of an arbitrator in the case of disagreement as to the amount of compensation. These provisions would involve expenditure from the Consolidated Fund of the State. But the exact amount required for meeting the expenditure on the above account cannot be estimated at present.

A. J. JOHN.

Extraordinary Gazette No. 14 dated 10th March 1955.

NOTIFICATION.

No. LA 4-320/1955. *10th March 1955.*

The following bill together with the Statement of Objects and Reasons is published as ordered by the Speaker under Rule 73 of the Rules of Procedure and Conduct of Business in the Travancore-Cochin Legislative Assembly.

Legislature Secretariat,
Trivandrum.

V. KRISHNAMOORTHI,
Secretary, Legislative Assembly.

THE TRAVANCORE-COCHIN AGRICULTURAL INCOMETAX (AMENDMENT) BILL, 1955.

A Bill further to amend the Travancore-Cochin Agricultural Incometax Act, 1950.

Preamble. Whereas it is expedient further to amend the Travancore-Cochin Agricultural Incometax Act, 1950 (Act XXII of 1950), for the purposes hereinafter appearing;

Be it enacted in the Sixth Year of the Republic of India as follows :—

1. *Short title and commencement.* (1) This Act may be called the Travancore-Cochin Agricultural Incometax (Amendment) Act, 1955.

(2) It shall be deemed to have come into force on the 1st day of April 1951.

2. *Amendment of Section 2, Act XXII of 1950.* In Section 2 of the Travancore-Cochin Agricultural Incometax Act, 1950 (Act XXII of 1950), hereinafter referred to as the said Act—

(i) Clause (i) defining the word "Dividend" shall be omitted; and

(ii) in clause (s) defining the expression "Total Agricultural Income", for the words, brackets, letters and figures "clauses (a) to (d) of Section 10", the words, brackets, letters and figures "clauses (a), (c) and (d) of Section 10" shall be substituted.

3. *Amendment of Section 10, Act XXII of 1950.* In Section 10 of the said Act, clause (b) shall be omitted.

4. *Omission of Section 14, Act XXII of 1950.* Section 14 of the said Act shall be omitted.

5. *Substitution of new section for Section 21, Act XXII of 1950.* For Section 21 of the said Act, the following section shall be substituted, namely:—

"21. (1) *Power to assess individual members of certain associations and companies.* Where the Agricultural Incometax Officer is satisfied that any association of individuals other than a Hindu undivided family, Marumakkathayam tarwad or a company is under the control of one member thereof, and that such association has been formed or is being used for the purpose of evading or reducing the liability to agricultural incometax of any member thereof, he may, with the previous approval of the Commissioner of Agricultural Incometax, pass an order that the sum payable as agricultural incometax by the association shall not be determined, and thereupon the share of each member in the agricultural income of the association shall be included in his total agricultural income for the purpose of his assessment thereon.

Explanation.—A member of an association who owns the whole or the major portion of the capital of the association shall not by reason only of that fact be deemed to control the firm or association.

(2) The Commissioner of Agricultural Incometax shall not give his approval to any order proposed to be passed by the Agricultural Incometax Officer under this section until he has given the firm, association or company concerned an opportunity of being heard.

(3) Where any member of an association of individuals makes default in the payment of tax on his share of income which has been included in his total agricultural income under the provisions of sub-section (1), such tax may be recovered from the association.

(4) Where agricultural incometax is recoverable from a company or association under this section, a notice of demand shall be served upon it in the prescribed form showing the sum so payable, and such company or association shall be deemed to be the assessee in respect of such sum, for the purposes of Chapter VI."

6. *Amendment of Section 44, Act XXII of 1950.*—In subsection (1) of Section 44 of the said Act, the words "or on his behalf or treated as paid on his behalf" shall be omitted.

7. *Omission of Sections 46 and 47 in Act XXII of 1950.* Sections 46 and 47 of the said Act shall be omitted.

8. *Amendment of Section 52, Act XXII of 1950.* In Section 52 of the said Act,—

(i) in clause (a), the word and figures "Section 14" shall be omitted ; and

(ii) clause (b) shall be omitted.

9. *Substitution of new section for Section 58, Act XXII of 1950.* For Section 58 of the said Act, the following section shall be substituted, namely:—

"58. *Application of Act to supertax.* All the provisions of this Act relating to the charge, assessment, collection and recovery of agricultural incometax except those contained in sub-section (1) of Section 3 and clauses (c), (d) and (e) of Section 10 shall apply so far as may be to the charge, assessment collection and recovery of supertax."

STATEMENT OF OBJECTS AND REASONS.

Section 10 (b) of the Travancore-Cochin Agricultural Incometax Act, 1950, exempts from taxation, dividends of companies whose agricultural income is assessed to tax. It will be noticed that while the dividend received by the shareholder is exempted, it is assessed to tax at the hands of the company. But since according to Section 46, the tax paid by the Company is treated as tax paid by its shareholder, by virtue of Section 44, the shareholder is entitled to a refund of the whole of the tax in respect of dividend paid on his behalf by the company. No tax is thus payable in respect of dividend. This is an anomalous position which was not intended by the Legislature and it is necessary to remove this anomaly. Further, it has been laid down by authorities in incometax law that dividend from an Agricultural Company is not agricultural income in the hands of the shareholder and that it is not therefore liable to be assessed to agricultural incometax. Payment by a company for agricultural incometax cannot be regarded as payment of agricultural incometax on behalf of the shareholder. Consequently the question of paying refunds of tax on dividends does not arise. It is therefore considered necessary not only to take away the exemption granted under Section 10 but also to omit all provisions in the Act relating to dividend. It is also necessary to give retrospective effect to the amendments proposed. The Bill is intended to give effect to the above objects.

PANAMPILLY GOVINDA MENON.